

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRANKLIN H. WRIGHT,
Plaintiff,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, et al.,
Defendants.

Case No. 15-cv-03204-JSW

**ORDER DENYING APPLICATION TO
PROCEED IN FORMA PAUPERIS AND
EX PARTE APPLICATION RE
SERVICE AND DISMISSING SECOND
AMENDED COMPLAINT WITH
PREJUDICE**

Re: Docket Nos. 21, 23

Now before the Court is the application to proceed *in forma pauperis* filed by plaintiff Franklin H. Wright (“Plaintiff”) and Plaintiff’s Second Amended Complaint. A district court may deny *in forma pauperis* status and *sua sponte* dismiss an action under certain circumstances, including when the underlying complaint sought to be filed is frivolous or when it fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2); *see also Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995).

On August 20, 2015, the Court issued an Order dismissing Plaintiff’s First Amended Complaint leave to amend, because he had not complied with Federal Rule of Civil Procedure 8(a). Specifically, the Court noted that Plaintiff’s First Amended Complaint does not contain clear and concise factual statements to support his twelve claims for relief and, thus, still does not comply with the requirements of Rule 8. Instead of including allegations in the body of his pleading, Plaintiff made references to other cases and filings, which made it impossible for the Court to discern whether it had jurisdiction over the claims, whether Plaintiff’s claims would be barred based on doctrines of immunity, whether Plaintiff may be collaterally estopped from asserting the claims or whether there was some other legal basis to conclude that Plaintiff’s claims are futile,

1 such as whether his claims would be barred by *Heck v. Humphrey*, 512 U.S. 477 (1994), or
2 prosecutorial immunity. (*See generally* Docket No. 18, Order Denying Application to Proceed in
3 Forma Pauperis and Dismissing First Amended Complaint (“August 20, 2015 Order”).)

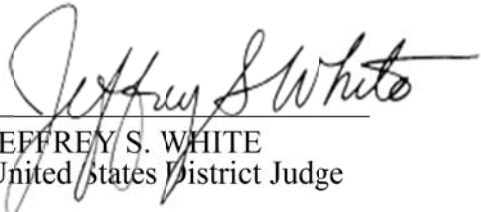
4 Plaintiff’s Second Amended Complaint suffers from these same defects, despite the
5 Court’s direction that he must set forth the facts that support the claims for relief in the body of his
6 pleading. For these reasons, and for the reasons set forth in the Court’s August 20, 2015 Order,
7 the Court DENIES Plaintiff’s renewed application to proceed *in forma pauperis*.

8 The Court has given Plaintiff two opportunities to amend his claims in this case, and it
9 concludes that any further attempts to amend would be futile. Accordingly, the Court
10 DISMISSES, WITH PREJUDICE, the Second Amended Complaint. , and it DISMISSES
11 Plaintiff’s Second Amended Complaint. *Cf. Cafasso v. General Dynamics C4 Systems, Inc.*, 637
12 F.3d 1047, 1058-59 (9th Cir. 2011) (upholding denial of leave to amend where amendment would
13 have been futile because of “proposed pleading’s extraordinary prolixity”) (citing cases);
14 *McHenry v. Renne*, 84 F.3d 1172, 1177-80 (9th Cir. 1996) (“propriety of dismissal for failure to
15 comply with Rule 8 does not depend on whether the complaint is wholly without merit” and even
16 if factual elements of the cause of action are present, but are scattered throughout the complaint
17 and are not organized into a “short and plain statement of the claim,” dismissal for failure to
18 satisfy Rule 8 is proper).

19 In light of this ruling, the Court DENIES, AS MOOT, Plaintiff’s *Ex Parte* application
20 regarding service. The Court shall enter judgment, and the Clerk shall close this file.

21 **IT IS SO ORDERED.**

22 Dated: August 31, 2015

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25 JEFFREY S. WHITE
26 United States District Judge
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